Section II (Remarks)

By the present amendment, claims 20, 22, 23, 27, 33, 34, and 38 have been amended, claim 28 has been cancelled, and claims 46-58 have been added. Claims 1-19 were cancelled previously.

Claims 20, 22, 33, 34, and 38 have been amended to recite a "mixing paddle" instead of "at least one mixing element."

Claims 20, 33, and 34 have been amended to recite that the sealed sleeve has a closed end protruding into the tank.

Claims 20 and 33 have been amended to recite that a support rod associated with the mixing paddle is coupled to the motor. Similarly, claim 34 has been amended to recite that a shaft associated with the mixing paddle is coupled to the motor.

Claims 46-58 claim further salient features of the invention. Such claims are fully supported by the original disclosure.

No new matter within the meaning of 35 U.S.C. 132(a) has been introduced by the foregoing amendments.

A. Claim Rejections Under 35 U.S.C. § 112, First Paragraph

In the April 17, 2006 Office Action, claims 41-45 were rejected under 35 U.S.C. § 112, paragraph, as failing to comply with the written description requirement for the presence in the claims of subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the invention was filed, had possession of the claimed invention. Specifically, the examiner asserted that the specification fails to provide the written description that the paddle "**is adapted to travel within the tank through a defined path at a nonzero angle relative to the central vertical axis.**"

Such rejection is traversed.

As noted by the Board of Patent Appeals and Interferences:

> **"[I]it is well settled that drawings may be relied upon to satisfy the disclosure requirements of 35 USC §112.** *See In re Berkman,* 642 F.2d 427, 209 USPQ 45 (CCPA 1981), *citing Breen* v. *Cobb,* 487 F.2d 558, 179 USPQ 733 (CCPA 1973); *In re Reynolds,* 58 CCPA 1287, 443 F.2d 384, 170 USPQ 94 (1971); *In re Wolfensperger,* 49 CCPA 1075, 302 F.2d 950, 133 USPQ 537 (1962).

Ex parte Horton, 226 USPQ 697, 699 (B.P.A.I. 1985)(overturning all 35 USC § 112 claim rejections at issue).

Similarly, the Federal Circuit has stated:

> **"drawings alone may provide a written description of an invention as required by § 112.** ... Drawings constitute an adequate description if they describe what is claimed and convey to those of skill in the art that the patentee actually invented what is claimed."

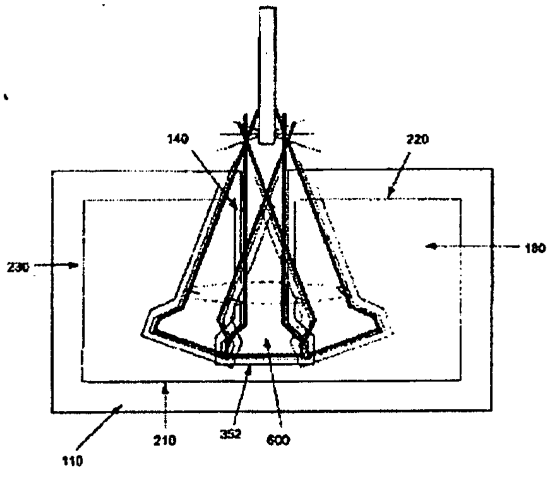
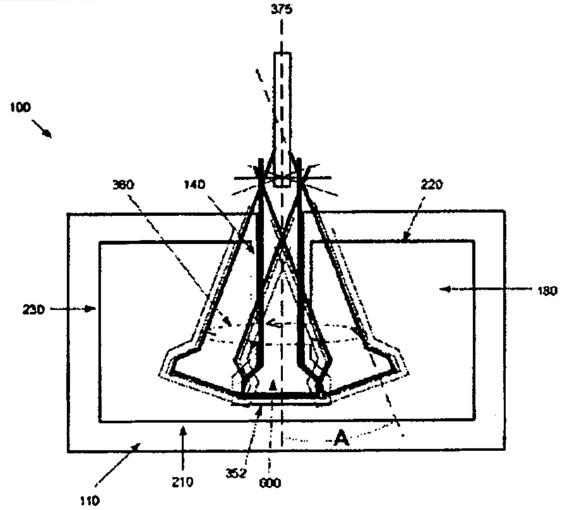
Cooper Cameron Corp. v. Kvaerner Oilfield Prods., 291 F.3d 1317, 62 USPQ2d 1846, 1850 (Fed. Cir. 2002).

In Applicant's previous Amendment filed on January 27, 2006, paragraphs [0065] and [0090] of the substitute specification were amended exactly as set forth below:

> [0065] FIG. 6 serves to illustrate, in 2-dimensions, mixing tank, 100, and sealed sleeve 140, having a paddle, 600, arranged therein, by a form-fitting means. The paddle may include one or more sections of manufacture. The interior portions of bottom, top, and lateral walls, 210, 220 and 230 respectively, and exterior portion of sealed sleeve wall, 352, serve to define the interior volume, 180, of mixing tank 100, for housing components of a mixture, before or after a mixing process. Sealed sleeve, 140, comprising paddle 600, moves within mixing tank 100 at a nonzero angle A relative to a central vertical axis 375 of the tank 100, though a 360 degree range of motion (represented by dashed line 360) in [[the]] a plane parallel to the[[of]] mixing tank base 110, whereby through mechanical motion, the paddle 600 at least partially combines the components housed therein.
>
> [0090] In block 804, the components loaded into the mixing tank 100, are mixed, at least partially, based on rotation of the mixing device as shown in FIG. 7. The mixing of the components may be performed by an individual and/or a control apparatus (not shown). The mixing of the components may be carried out by a

> number of rotations of the mixing means 700, wherein one rotation includes rotating at least a 360 degree turn. In one embodiment, the range of motion through the 360 degree rotation is in the plane parallel to the[[of]] mixing tank base 110.

Sheet 8 of the drawings, including Figure 6, was also amended on January 27, 2006. Both the original Figure 6 and the amended Figure 6 are reproduced below to permit direct side-by-side comparison:

 Figure 6	 375 100 360 140 220 180 230 A 210 352 600 110 Figure 6
ORIGINAL FIG. 6 as filed 10/14/2003	**AMENDED FIG. as filed 1/27/2006**

The **only differences** between the drawings are (1) enhanced identification of the axis 375 and angle A with dashed lines and the element number 375; and (2) enhanced identification of the (circular) travel path of the mixing paddle by addition of element number 360 and darkening of arrows provided thereon.

It is plainly obvious that Original Fig. 6 illustrates a nonzero angle of travel – as apparent from the dashed circle with arrows appearing in the center of the figure, and from original text repeatedly indicating that the mixing paddle moves "though a 360 degree range of motion in the plane of (*sic- parallel to*) the mixing tank base 110 " See, e.g., paragraphs [0065], [0090]. **Merely labeling the features already present in Figure 6 cannot constitute new matter.** Indeed, such point is implicitly conceded by the examiner, since new claims 40-44 did not trigger any "new matter" rejection under 35 U.S.C. 132(a).

As noted by the predecessor court to the Federal Circuit, **whatever is disclosed by the drawings "may be added to the specification in words without violation of the statute and rule [35 U.S.C. 132, Rule 118] which prohibit new matter."** *In re Wolfensperger*, 302 F.2d 950, 133 USPQ 537, 542 (C.C.P.A. 1962).

There is no question that Original Fig. 6 depicts a paddle traveling within a tank through a defined path at a nonzero angle relative to a central vertical axis. The fact that Amended Fig. 6 highlighted this feature (e.g., by adding element numbers and axis lines where none previously existed) does not render such feature "new matter."

In view of the substantial body of law establishing that drawings may be relied upon to satisfy the disclosure requirements of 35 USC §112, withdrawal of the rejection of claims 40-44 is warranted, and respectfully requested.

B. Claim Rejections Under 35 U.S.C. § 102

In the April 17, 2006 Office Action, claims 41-42 and 44 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. 2002/0105856 to Terentiev ("Terentiev"). Such rejections are traversed.

1. Law Regarding Anticipation

"Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W.L. Gore & Assocs. v. Garlock*, 721, F.2d 1540, 220 USPQ 303 at 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). It is not enough that the prior art reference disclose all the claimed elements in isolation. Rather, **"anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."** *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Further, "[u]nder 35

U.S.C. § 102, anticipation requires that ... the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public." *Akzo, N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986).

2. Summary of Key Distinctions Between Claims 41-42 and 44, and Terentiev

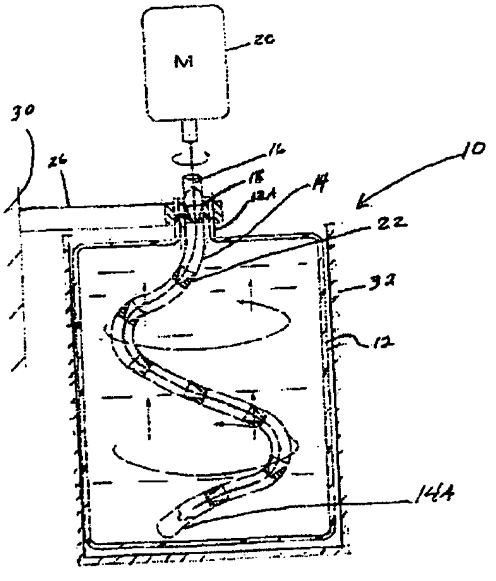
Claims 41-42 and 44 all require, *inter alia:*

> **a sealed sleeve ... defining a cavity containing the mixing paddle and at least a portion of the shaft; and**
> **a "mixing paddle contained within the sealed sleeve is driven by the motor and is adapted to travel within the tank through a defined path at a nonzero angle relative to the central vertical axis."**

Nothing in Terentiev discloses (1) a mixing paddle; or (2) a paddle adapted to travel within the tank through a defined path at a nonzero angle relative to the central vertical axis. Such concepts are discussed in further detail, *infra.*

3. Disclosure of Terentiev

Terentiev discloses a mixing bag 12 containing a spiral-shaped rotatable flexible or rigid tube 14, 140 that serves as a mixer. The rotatable tube extends through a first seal 18, 118, and optionally a second seal 119, defined in a wall of the bag, and engages an external motor 20. Terentiev, FIGS. 1-2 and corresponding text (as reproduced below), including ¶ [0019].



Terentiev Figure 1

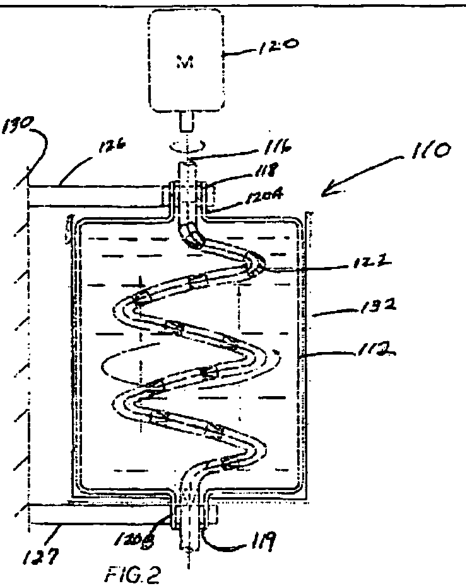


FIG.2

Terentiev Figure 2

"As with the first [seal 18], the **static seals** 118, 119 can be made out of a rigid plastic similar to polyethylene, ceramic, or a metal similar to stainless steel." Id., ¶ [0019]. The neck(s) 12A, 120A, 120B of a mixing bag are clamped around the seal(s) with clamp mechanism(s) 26, 126, 126. Id., ¶¶ [0017], [0019] & FIGS. 1-2. The resulting clamped structure provides an interface between the hollow mixing tube and the tank in which the tube freely rotates against the static seals 18, 118, 119. Consistent with this utility, "the tube 14 has an opened distal end, outside the container 12, a closed distal end, inside the container 12 and an **essentially a circular cross-section of constant diameter along its length**." Id., ¶ [0015]. A rigid rod 16 is inserted into the tube 14, such that the flexible tube takes on the shape of the rod. Id., ¶¶ [0009], [0015]. Spacers 22 [and 122] are provided along the length of the inner wall of the tube 14 to, *inter alia*, "assist in ... **transferring the movement [or rotational torque energy] of the rod 16 to the tube** during operation ... by transmitting rotational torque energy ." Id., ¶ [0016]. The spacers 22, 122 have a conically-shaped "bore 22a to facilitate the feeding or threading of rod 16 through the tube 14 without damage thereto ... ." Id., ¶ [0016] "The rod is operatively coupled to a drive shaft of a motor and during operation **causes the flexible mixing tube to move with the rod** for axial or radial mixing of the product contained within the bag." Id., ¶ [0009]. "For radial mixing, a zigzag shape or "S" shape of the rod 16 is the preferred embodiment." Id., ¶ [0015]. For axial mixing, a "helically shaped rod 116" may be used. Id., ¶¶ [0018], [0019]. The rod should "have its mass distributed equally about it[s] axis of rotation to minimize ... vibrations ... during any mixing process." Id., ¶ [0015]

4. Meaning of "Mixing Paddle" in the Present Claims

A mixing paddle is distinct from a shaft. For example, paragraph 0061 of the present specification states:

> **The support rod or shaft**, having a proximal end closest to the upper wall 120 of mixing tank 100 and distal end farthest from upper wall 120 of mixing tank 100, **may be *enhanced* by *additional feature(s)* such as paddles** and/or blades. (Emphasis added.)

In this regard, a paddle must have some feature that is distinct from a shaft; otherwise, the foregoing "enhanced" language would be meaningless.

Merriam-Webster's Online Dictionary defines the noun "paddle" in this context as follows:

> Main Entry: ^{2}**paddle**
> Function: *noun*
> Etymology: Middle English *padell* spade-shaped tool for cleaning a plow
> **1 b** : an implement often with a short handle and a **broad flat blade** that is used for stirring, mixing, or hitting; *especially* : one used to hit a ball in any of various games (as table tennis)
> **2 b** : any of the **broad blades** attached to a shaft (as in an ice cream machine) and used for stirring

See: http://www.m-w.com/cgi-bin/dictionary (search for "paddle' and select "paddle[2: noun]").

Accordingly, a "paddle" as disclosed in the present application and used in the pending claims must include some blade portion having a breadth that is greater than the diameter of an associated shaft.

5. Terentiev Cannot Anticipate Claims 41-42 and 44 For Failing To Disclose Any "Mixing Paddle"

As noted previously, claims 41-42 and 44 all require the presence of a mixing paddle, and a "mixing paddle" as used in this context requires some blade portion having a breadth that is greater than the diameter of an associated shaft. The Examiner contends that Terentiev discloses "plural mixing paddle elements 22 to form and support the sleeve for agitation." Office Action, ¶ 6. Such contention is false. As established previously herein, a "mixing paddle" requires some blade portion having a breadth that is greater than the diameter of an associated shaft. In contrast, Terentiev teaches that the tube 14 [and 140] has "essentially a circular cross-section of **constant diameter along its length.**" Id., ¶ [0015]." Spacers provided between the rod and tube of Terentiev also fail to accommodate any paddle, since they fit within the constant diameter tube 14, 140 and have a conically-shaped bore 22a. As a result, **Terentiev fails to disclose any "mixing paddle" as required by claims 41-42 and 44.**

Accordingly, since Terentiev fails disclose "each and every element of the claimed invention, arranged as in the claim" (*Lindemann, supra*) as would be required to anticipate the claims, withdrawal of the rejections under 35 U.S.C. 102 of claims 41, 42, and 44 is respectfully requested.

6. Terentiev Cannot Anticipate Claims 41-42 and 44 For Failing To Disclose A Paddle Adapted To Travel Within The Tank Through A Defined Path At A Nonzero Angle Relative To A Central Vertical Axis

Terentiev refers to two possible mixing modes – axial mixing and radial mixing. Terentiev, ¶¶ [0015], [0018], [0019]. Radial mixing can be performed with a rod having a zigzag shape or "S" shape (*Id.*, ¶ [0015]), while axial mixing can employ a helically shaped rod (*Id.*, ¶¶ [0018], [0019]). In either instance, however, the rod rotates about its axis of rotation (e.g., *Id.*, ¶ [0015]). **Nothing in Terentiev teaches or remotely suggests** a "paddle" – *let alone* a **paddle that is adapted to travel within the tank through a defined path at a nonzero angle** relative to a central vertical axis of the mixing tank. To the contrary, Terentiev teaches that any mixing shaft should extend between the motor and tank through one or more annular seals 18, 118, 119 that would prevent movement of any rod through a tank at a nonzero angle relative to the central vertical axis. The second embodiment of Terentiev (as illustrated in Figure 2) provides that the helical rod is bound at both ends, further evidencing its restraint from lateral movement within the tank.

Once again, since Terentiev fails disclose "each and every element of the claimed invention, arranged as in the claim" (*Lindemann, supra*) as would be required to anticipate the claims, withdrawal of the rejections under 35 U.S.C. 102 of claims 41, 42, and 44 is respectfully requested.

C. Claim Rejections Under 35 U.S.C. § 103

The April 17, 2006 Office Action, contained various claim rejections under 35 U.S.C. § 103, as summarized below:

- claims 20-40 were rejected under 35 U.S.C. § 103 as unpatentable for obviousness over U.S. Patent Application Publication No. 2003/0226857 to Bibbo, et al. ("Bibbo '857"); and
- claims 20-40, 43, and 45 were rejected under 35 U.S.C. § 103 as unpatentable for obviousness over Bibbo '857 in view of Terentiev.

Such rejections are traversed.

1. Law Regarding Obviousness

Concerning §103 obviousness rejections, three requirements must be met for a *prima facie* case of obviousness. First, **the prior art reference(s) must teach all of the limitations of the claims.** MPEP § 2143.03. Second, there **must be a motivation to modify the reference or combine the teachings to produce the claimed invention**. MPEP § 2143.01. Third, a reasonable expectation of success is required. MPEP § 2143.02. In addition, the teaching or suggestion to combine and the expectation of success must both be found in the prior art and not based on applicant's disclosure. MPEP § 2143.

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). A further consideration, which applies to all obviousness rejections, is that "[a] **prior art reference must be considered in its entirety**, *i.e.*, as a whole, **including portions that would lead away from the claimed invention.** *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)." (emphasis in original; MPEP 2141.02).

2. *Disclosure of Bibbo*

Bibbo discloses a mixing assembly including a flexible mixing bag 202, a mixer or impeller 204 configured to be disposed within the mixing bag 202, and an expandable tubular seal 206 configured to provide a fluid sealed connection between the mixing bag 202 and the mixer 204 – wherein a mixing shaft 208 extends through a tubular seal 206 into the mixing bag to engage the **mixer (impeller) 204 that directly contacts the contents within the bag**. Bibbo, ¶¶ 0113-0138 & FIGS. 11, 14A, 14B. Figure 11 of Bibbo is reproduced below.

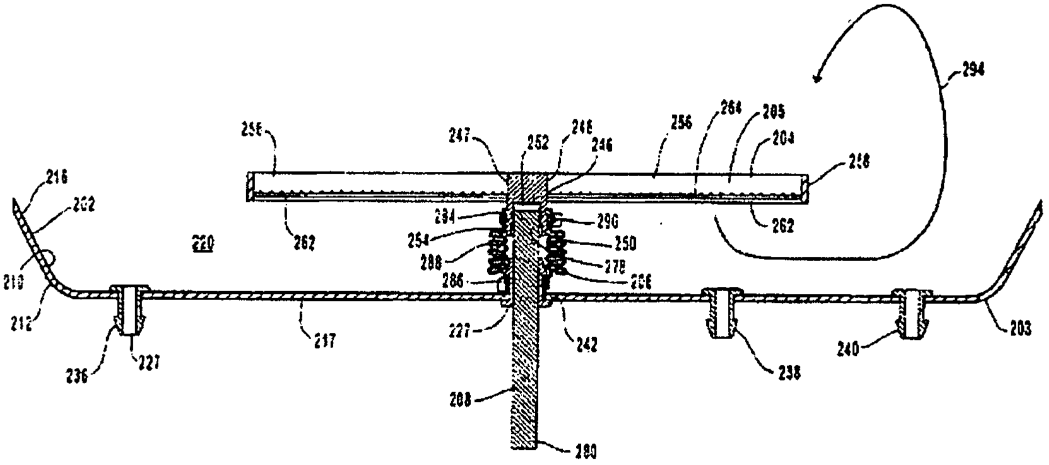


FIG. 11

Mixing is accomplished by selectively raising or lowering the mixer (or impeller) with, and/or rotating, the shaft. E.g., Bibbo, ¶¶ 135-140. The expandable tubular seal 206 is open at each end to permit a shaft 208 to protrude therethrough. E.g., Bibbo, FIG. 11. Mixing bags according to Bibbo are supported by the floor 110 and side walls 24 of a surrounding tank assembly 20. Bibbo, ¶0121.

3. *Patentable Distinctions Between Claims 20-40 and Bibbo*

Referring to claims 20-40, the Examiner asserts that the "sleeve 288 [in] figure 11 [of Bibbo] 'serves as an isolation barrier between the volume and ***any portion of the at least one mixing element***.'" April 17, 2006 Office Action, ¶ 8. As indicated previously, claims 20, 22, 33, 34, and

38 have been amended to recite a "mixing paddle" instead of "at least one mixing element." Considered in context, **these claims now require that "the sealed sleeve serves as an isolation barrier between the volume and the mixing paddle."**

While the expandable tubular seal 206 of Bibbo may isolate a shaft from a mixing tank, a shaft is not a "mixing paddle" as required by claims 20-40, and **Bibbo clearly fails to disclose any barrier-type sleeve between a paddle and an interior volume of a mixing tank.** Instead, Bibbo teaches an expandable tubular seal 206 having **two *open* ends** and a structure permitting ***direct contact*** **between a mixer impeller 204 and the contents of a tank**. See, e.g., Bibbo, ¶135 & FIG. 11 ("[a]s mixer 204 begins to push downward ... the fluid pushes flaps 264 against retention screen 260 ... [and] downward movement of mixer 204 causes the fluid within compartment 220 to flow down, out, up, and around as shown by arrow 294 in FIG. 11."). This sleeveless, direct contact between mixer and contents to be mixed is clearly contrary to the isolation barrier functionality required by all of claims 20-40.

The examiner further admits that Bibbo fails to disclose any weld connecting a sleeve to a flexible mixing tank (April 17, 2006 Office Action, page 5) but asserts that "it would have been obvious to one of ordinary skill ... to join the sleeve [] to the tank into an integral structure via the common conventional welding technique, such as heat or sonic welding so as to provide a hermetic sealed structure so as to provide a [sic] easily constructed and sealed joint between the sleeve and the tank." Such assertion suggests a fundamental misunderstanding of the disclosure of Bibbo in comparison to claims 20-40.

Independent claims 20, 33, 34, and 38 each require a **sealed sleeve having a closed end protruding into the tank.** To the extent that Bibbo were modified to provide a sealed sleeve welded to the mixing tank with the impeller being surrounded by a closed end of the sleeve, two possible outcomes would result: (1) the impeller would spin within the sleeve and no mixing would occur (since fluid flow would be prevented through the vanes of Bibbo's mixing impeller); or (2) the impeller would catch or bind the sleeve, and promptly tear the sleeve away from the tank to eliminate any isolation barrier between the impeller and the tank interior. In either instance, the functionality of present claims 20-40 would not be replicated.

Additionally, Bibbo fails to teach the use of a support frame having a plurality of windows, as required by dependent claims 31-32 and 34-37; instead, Bibbo teaches the use of a tank to support the mixing bag. The use of a frame versus a tank to support a mixing bag offers numerous advantages, including reduced material requirements and cost, enhanced flexibility to rescale mixing operations for different production volumes, and enhanced visibility of the contents of the tank.

Based on the foregoing, **Bibbo fails to teach all of the limitations of the claims**, as required by MPEP § 2143.03 to support a *prima facie* case of obviousness. Moreover, **there exists no motivation to modify Bibbo to produce the claimed invention**, as also required by MPEP § 2143.01 to support such a *prima facie* case. Given these clear shortcomings of Bibbo relative to the pending claims, withdrawal of the obviousness rejections of claims 20-40 based on Bibbo is warranted, and respectfully requested.

4. *Patentable Distinctions Between Claims 20-40 Over Any Combination of Terentiev and Bibbo*

It has been previously demonstrated that Bibbo fails to teach or suggest all of the limitations of claims 20-40. Terentiev fails to remedy the deficiencies of Bibbo's disclosure in this regard.

Claims 20-40 include four independent claims, namely, claims 20, 33, 34, and 38. Each of these claims require, *inter alia*, a sealed sleeve containing a mixing paddle, and welded connection between the sleeve and the tank. Terentiev disclosed neither of these features. Such limitations inhere to all of the claims depending from claims 20, 33, 34, and 38.

As noted previously, a "mixing paddle" as disclosed in the present application and used in the pending claims must include some blade portion having a breadth that is greater than the diameter of an associated shaft. **Terentiev fails to disclose any mixing paddle as recited in claims 20,, 33, 34, and 38.** To the contrary, Terentiev teaches that the tube 14 has "essentially a circular cross-section of **constant diameter along its length**." Id., ¶ [0015]." Spacers provided between the rod and tube of Terentiev also fail to constitute or accommodate any "paddle," since such spacers fit *within* the fixed-diameter tube and have a conically-shaped bore 22a.

With regard to the **welded connection** between sleeve and tank required by claims 20, 33, 34, and 38, **Terentiev similarly fails to teach or suggest such a feature.** Rather than direct welded connection between tube and tank, Terentiev discloses intermediate static seals 18, 118, 119 that can be made out of a rigid plastic similar to polyethylene, ceramic, or a metal similar to stainless steel." Terentiev, ¶ [0019]. The neck(s) 12A, 120A, 120B of a mixing bag are clamped around the seal(s) with clamp mechanism(s) 26, 126, 126. Id., ¶¶ [0017], [0019] & FIGS. 1-2. Terentiev's resulting clamped structure provides an interface between the hollow mixing tube and the tank in which **the tube freely rotates against the static seals** 18, 118, 119. It is abundantly clear that Terentiev's tube must move relative to the seals 18, 118, 119. See, e.g., Terentiev, ¶ [0009]. "[t]he rod is operatively coupled to a drive shaft of a motor and during operation **causes the flexible mixing tube to move with the rod** for axial or radial mixing of the product contained within the bag." **Any modification of Terentiev to weld the tube to the tank would promptly tear the tube away from the tank** and eliminate any isolation barrier between the rod and the tank interior.

Since any combination of Terentiev and Bibbo **fails to teach all of the limitations of the claims, and there exists no motivation to combine (and modify) the references to produce the claimed invention,** no *prima facie* case of obviousness has been demonstrated according MPEP §§ 2143.01, 2143.03. Accordingly, withdrawal of the obviousness rejections of claims 20-40 based on Terentiev and Bibbo is respectfully requested.

5. *Patentable Distinctions Between Claims 43 and 45 Over Any Combination of Terentiev and Bibbo*

It has demonstrated previously herein that Terentiev fails to disclose any mixing paddle adapted to travel within the tank through a defined path at a nonzero angle relative to a central vertical axis, all as required by claims 43-45 (which depend from claim 41). Bibbo fails to remedy the deficiencies in Terentiev's disclosure in this regard. *Moreover,* impeller-based devices according to Bibbo require fluid movement through impeller vanes to accomplish fluid mixing – a structure that is **clearly inconsistent** with the claimed structure having a sealed sleeve serving as an isolation barrier to isolate the volume from a mixing paddle and shaft.

Since any combination of Terentiev and Bibbo **fails to teach all of the limitations of the claims,** **and there exists no motivation to combine (and modify) the references to produce the claimed invention,** no *prima facie* case of obviousness has been demonstrated according MPEP §§ 2143.01, 2143.03. Accordingly, withdrawal of the obviousness rejections of claims 43-45 based on Terentiev and Bibbo is respectfully requested.

D. Discussion of New Claims 46-58

New claims 46-58 all depend from independent claim 46. Such claims are believed to be fully distinct over the cited references as requiring in combination, *inter alia*:

> "a sleeve having an open end joined to the mixing tank along an immovable sealed joint;"
> [the sleeve] "defining a cavity having a wider portion toward the closed end and a relatively narrower portion toward the open end;"
> "a mixing element disposed substantially within the wider portion of the cavity and adapted to engage a shaft insertable through the open end of the sleeve;" and
> "the sleeve [serving] as an isolation barrier between the volume and the mixing element."

E. Fees Due and Payable For Excess Claims

Claim fees corresponding to 5 independent claims and 26 total claims have been previously paid in the present application (see, e.g., fee payment with Amendment filed on January 27, 2006). By virtue of the present amendment, 6 independent claims and 38 total claims are now pending in the application. Thus, it is believed that excess claim fees corresponding to 1 independent claim and 12 total claims, calculated as (1 x $200.00) + (12 x $50.00) = $800.00 are due and payable as excess claims fees with the present Response. Accordingly, **total fee payment in the amount of $920.00** (including $800.00 for excess claims and $120.00 for a one-month extension of time) is authorized to be charged in the enclosed Credit Card Payment Form PTO-2038. If Applicant is mistaken in its calculation of fees currently due and payable, then any additional fee due and properly payable to enter the present Response is hereby authorized to be charged to deposit account number 08-3284 of Intellectual Property/Technology Law.

CONCLUSION

Pending claims 20-27 and 29-58 are in form and condition for allowance. Issuance of a Notice of Allowance for the application is therefore requested. If any issues remain outstanding, incident to the formal allowance of the application, the Examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss the same, in order that this application may be allowed and passed to issue.

Respectfully submitted,

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